IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF JANUARY
TWO THOUSAND AND SIX

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 23166 of 2003

Between:

K.Mohan Prasad

..... PETITIONER

AND

The Commissioner, Muncipal Corporation of Hyderabad.
Tank Bund, Hyderabad and another

.....RESPONDENTS

ORDER:

In this writ petition, the petitioner has questioned the notice dated 21.09.2002 issued in Sl.No.23 by the Municipal Corporation of the City of Hyderabad, in exercise of powers under Section 636 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act').

Heard the learned counsel for the petitioner and the learned standing counsel appearing for the respondents.

It is submitted by the learned counsel for the petitioner that in this case without conducting any enquiry and without issuing any prior notice, as contemplated under Section 452 of the Act, straight away the impugned notice issued, pointing out certain violations in constructing the building.

No counter affidavit is filed on behalf of the respondents. Further the learned standing counsel appearing for the respondents has not disputed that the impugned notice is preceded by prior opportunity or hearing.

In that view of the matter, even to point out any deviations, unless summary enquiry is conducted by issuing authority, no orders can be passed under Section 636 of the Act, directing the petitioner to remove the alleged deviated constructions. On this short ground, the impugned notice dated 21.09.2002 is liable to be set aside.

Accordingly, the Writ Petition is allowed, setting aside the impugned notice dated 21.09.2002. No order as to costs.

_____

R.SUBHASH REDDY,J

Dated: 31.01.2006

Dsr